

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS

KEVIN D. JOHNSON,

Petitioner,

v.

Case No. 08-cv-304-JPG-PMF

SUSAN SHOBE,

Respondent.

MEMORANDUM AND ORDER

This matter comes before the Court on the Report and Recommendation (“Report”) (Doc. 31) of Magistrate Judge Philip M. Frazier recommending that the Court grant respondent Susan Shore’s motion to dismiss petitioner Kevin D. Johnson’s petition for a writ of *habeas corpus* pursuant to 28 U.S.C. § 2254 (Doc. 13) and deny Johnson’s motion for stay and abeyance (Doc. 29).

After reviewing a magistrate judge’s report and recommendation, the Court may accept, reject or modify, in whole or in part, the findings or recommendations of the magistrate judge in the report. Fed. R. Civ. P. 72(b). The Court must review *de novo* the portions of the report to which objections are made. *Id.* “If no objection or only partial objection is made, the district court judge reviews those unobjection portions for clear error.” *Johnson v. Zema Systems Corp.*, 170 F.3d 734, 739 (7th Cir. 1999).

The Court has received no objection to the Report. The Court has reviewed the entire file and finds that the Report is not clearly erroneous. Accordingly, the Court hereby **ADOPTS** the Report in its entirety (Doc. 31), **GRANTS** the motion to dismiss (Doc. 13), **DISMISSES without prejudice** Johnson’s petition for petition for a writ of *habeas corpus* pursuant to 28 U.S.C. § 2254 (Doc. 1) for failure to exhaust state court remedies and **DIRECTS** the Clerk of Court to enter judgment accordingly.

IT IS SO ORDERED.

DATED: June 22, 2009

s/ J. Phil Gilbert
J. PHIL GILBERT
DISTRICT JUDGE